



JUN 25 2001

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In re Application of :
STAEBLER, et al. : DECISION ON REQUEST
Application No.: 09/762,007 :
PCT No.: PCT/DE00/01720 :
Int. Filing Date: 26 May 2000 : FOR STATUS UNDER
Priority Date: 05 June 1999 :
Attorney Docket No.: 1441 : 37 CFR 1.42
For: HAND-GUIDED MACHINE JIG SAW :

This decision is in response to applicant's submission of executed inventor's declaration filed in the United States Patent and Trademark Office (USPTO) on 15 March 2001. The submission is being treated as a request for status under 37 CFR 1.42

BACKGROUND

On 26 May 2000, applicant filed international application PCT/DE00/01720, which claimed priority of an earlier application filed 05 June 1999. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 14 December 2000. A Demand for international preliminary examination, in which the United States was elected, was not filed prior to the expiration of nineteen months from the priority date. Accordingly, the twenty-month period for paying the basic national fee in the United States expired at midnight on 05 February 2001.

On 01 February 2001, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an English translation of the international application as required by 35 U.S.C. 371 (c)(2); an Information Disclosure Statement under 37 CFR 1.97 and 1.98, a first preliminary amendment and an unexecuted oath or declaration of the inventors.

On 05 March 2001, applicant was mailed a "Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US)" (Form PCT/DO/EO/905) informing applicant of the need to submit an oath or declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) and a surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the priority date. Applicant was given one month to submit a reply.

On 15 March 2001, applicant responded with the present submission accompanied by a declaration executed by inventors FRECH, WIKER, ENGELFELD and KEUSCH. In addition,

the declaration was signed by Monika STAEBLER as heiress and on behalf of deceased inventor Manfred-Otto STAEBLER. Applicant also authorized the deduction of the \$130.00 surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the priority date from Deposit Account No.: 19-4675.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

"In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."

In the present case, neither the declaration nor the cover letter filed 15 March 2001 indicates that Monika STAEBLER (the person signing the declaration on behalf of the first named inventor) is the **sole** heir of the deceased. Thus, there may be other heirs who are required to sign the declaration. In this regard, applicant has not satisfied the provisions of 37 CFR 1.42 and the declaration can not be accepted at this time.

CONCLUSION

For the above reasons, the petition under 37 CFR 1.42 is **DISMISSED**.

As detailed above, \$130.00 will be deducted from Deposit Account No.: 19-4675 for payment of the relevant surcharge.

Applicant is hereby afforded TWO (2) MONTHS from the mail date of this decision to provide an oath or declaration in compliance with 37 CFR 1.497(a)-(b) or to provide certification from counsel that the heiress who executed the 15 March 2001 declaration constitutes all of the heirs of the deceased inventor. Extensions of time are available under 37 CFR 1.36(a).

Any further correspondence with respect to this matter should be directed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter directed to the attention of the PCT Legal Office.



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